

EXHIBIT D

From: Gonzalez, Arturo J.
Sent: Monday, April 24, 2017 4:21 PM
To: David Perlson; John Neukom
Cc: John Cooper; Matthew Cate; QE-Waymo; UberWaymo;
BSF_EXTERNAL_UberWaymoLit@bsfllp.com
Subject: Waymo v. Uber - Discovery Issues Raised by Waymo at 8:42 p.m. on Sunday evening

David,

We write to briefly address the issues raised in your letter to the Special Master, send at 8:42 p.m. on Sunday evening.

First, you identify for the first time our responses to four of your 22 priority requests, claiming they are deficient. Here is our response:

Prioritized Request No. 8 ("Documents reflecting a flexible receive PCB.").

Neither Fuji nor Spider uses a flexible receive PCB. For the Spider project, a consultant proposed a thin rigid receiver PCB that could be bent into a curved surface. Although that proposal is not directly responsive, it was produced. See UBER00011879-UBER00011895. As noted in the proposal, this receiver PCB design was put on hold and, because of the switch from Spider to Fuji, this design was never finalized. See UBER00011881. The consultant did not provide any CAD files or physical samples for this receiver PCB design.

Prioritized Request No. 11 ("Documents reflecting a cylindrical lens that both pre-collimates a laser diode's output beam and alters the angle of the beam.").

Uber has only one FAC lens design, which is used in Fuji. We have provided schematics of the FAC lens. See UBER00011612, UBER00011485. We also have made the Fuji CAD files, including CAD files showing the FAC lens, available for inspection. After you inspected the CAD files on 4/19, we provided hard copies of the images you took of the FAC lens and how the FAC lens is positioned relative to a laser diode and a transmit PCB. See UBER00011702, UBER00011725. We have also provided screenshots of the optical beam output from the FAC lens. See UBER00011465-UBER00011467. Notably, you are aware of these optical beam output documents related to the FAC lens because you presented them as Exhibit 102 during the deposition of Mr. Gaetan Pennecot.

Further, you confirmed during the deposition of Mr. Pennecot, who helped designed the FAC lens, that the FAC lens pre-collimates a laser diode's output beam and was designed to straighten a laser diode's output beam, as shown in the produced optical beam output documents. See Pennecot Transcript at 61:3-9.

Prioritized Request No. 17 ("Documents reflecting the rates at which the laser diodes are fired in a 64 beam LiDAR system.") and Prioritized Request No. 18 ("Documents reflecting the amounts of power per shot used for laser diodes in a 64 beam LiDAR system.")

Uber provided a spreadsheet containing the starting requirements of the Fuji device, which includes information regarding the firing rate. See UBER00005798. Uber also produced a spreadsheet containing the requirements of the Fuji device. See UBER00005939. The spreadsheet includes information regarding the pulse rate (i.e. fire rate) and the power requirements of Fuji. In addition, Uber provided the schematic of Fuji's laser diode firing circuit. See UBER00008412-UBER00008413, Exhibits C-D of Haslim Declaration. These documents provide the information needed to calculate the power per shot used for laser diodes in Fuji.

Second, you reference Judge Alsup's order that we search all servers. We made it clear to Judge Alsup that it was not possible to search every server on such a compressed time frame. That is why he appointed Special Master Cooper and ordered the parties to prioritize and to confer in good faith. Judge Alsup has made it clear that you can't get everything you want on such a compressed time schedule.

Finally, your letter raises issues with respect to the supplemental document production that we agreed to with the Special Master on Thursday. One of the things that Waymo was supposed to do was to identify two Uber employees that you wanted us to search. **We did not get those names until 8:23 p.m. last night** when you sent your letter to the Special Master. We are working on this supplemental production and should be able to start a rolling production by Wednesday morning.

Arturo J. González
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-----Original Message-----

From: David Perlson [<mailto:davidperlson@quinnemanuel.com>]
Sent: Sunday, April 23, 2017 8:42 PM
To: Gonzalez, Arturo J.; John Neukom
Cc: John Cooper; Matthew Cate; QE-Waymo; UberWaymo; BSF_EXTERNAL_UberWaymoLit@bsfllp.com
Subject: Waymo v. Uber - Discovery Issues Raised by Waymo at 8:42 p.m. on Sunday evening

Dear John, Uber's repeated violations of Judge Alsup's Orders are ripe. While Uber suggests that Waymo has somehow raised new issues as to Uber's privilege logs, that is untrue. Also attached is a letter regarding Uber's continued failures in its document production. Please inform Magistrate Corley that Waymo's position is that these document and privilege issues are ripe, have been long pending, and should be decided first.

David

-----Original Message-----

From: Gonzalez, Arturo J. [<mailto:AGonzalez@mofo.com>]
Sent: Sunday, April 23, 2017 6:10 PM
To: John Neukom <johnneukom@quinnemanuel.com>
Cc: John Cooper <JCooper@fbm.com>; Matthew Cate <MCate@fbm.com>; QE-Waymo <qewaymo@quinnemanuel.com>; UberWaymo <UberWaymo@mofo.com>; BSF_EXTERNAL_UberWaymoLit@bsfllp.com
Subject: Waymo v. Uber - Uber's Deficient Privilege Log

Special Master Cooper:

You asked Waymo to provide examples of their concerns regarding the log and for us to confer in good faith, and to consult with you as needed. The idea was not that they would write to you on Sunday evening and to request a hearing with Magistrate Corley. We are supposed to be prioritizing to get what the parties need for the hearing on preliminary injunction. This privilege log issue has nothing to do with Judge Alsup's consideration of the serious PI motion. Nonetheless, we will review the issues disclosed to us for the first time in the attached letter and respond to it no later than Tuesday morning.

Arturo

Sent from my iPad

> On Apr 23, 2017, at 5:58 PM, John Neukom <johnneukom@quinnemanuel.com> wrote:

>
> Dear John,
>
> Please find attached a letter regarding the deficiencies in Uber's privilege log. As noted in the letter, we believe these privilege log issues should also be addressed by Magistrate Judge Corley.
>
> Thank you,
> Jay
>
>
>
> <2017 04 23 Neukom Letter to Cooper re Deficiencies in Uber Privilege Log.pdf>

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